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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/023,444
Filing Date: December 13, 2001
Appellant(s): MAASS ET AL.

MAILED

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GROUP 3600

Kerrie A. Laba
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 22, 2007 appealing from the Office action mailed May 11, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

WITHDRAWN REJECTIONS

The rejection of claims 39 and 40 under 35 USC 112, second paragraph, is not presented for review on appeal because it has been withdrawn by the examiner.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,820,370	Marscholl	11-2004
4,503,732	Schust	3-1985
WO 00/53446	Kirejczyk	9-2000
5,033,236	Szerdahelyi et al.	7-1991
4,800,638	Herringshaw et al.	1-1989
6,430,873	Borchuk et al.	8-2002
5,857,732	Ritchie	1-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-28, 32, 33 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marscholl in view of Schust. Marscholl discloses a cable management assembly for a vehicle comprising: a carrier 2 for a cable 8, said carrier having a first side (not numbered, but shown in figure 1) and a second side (not shown) opposed thereto, and said carrier having a first elongate member (not numbered, but shown in figure 1) and a second elongate member (not numbered, but shown in figure 1), said first elongate member transverse to said second elongate member; a first cable

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guide 10 and a second cable guide 10 mounted to said first elongate member; a third cable guide 10 and a fourth cable guide 10 mounted to said second elongate member, a first guide rail 6 spaced generally parallel to a second guide rail 7, said first guide rail and said second guide rail mountable to said carrier on the first side to guide a window; and wherein said carrier has a plate (not numbered, but shown in figure 1) mounting a drive 4 for the window, the drive being mounted to the second side of the carrier, the drive includes a motor (not numbered, but shown in figure 1), a window cursor 14.

Marscholl is silent concerning a seal.

However, Schust discloses a drive 16 for a cable arrangement comprising a plate 60 having the drive 16 mounted thereto wherein the plate includes a seal 136. Since the drive includes the worm wheel 110, the seal extends around the drive.

It would have been obvious to provide Marscholl with a drive as taught by Schust, to prevent water from penetrating into the drive and to reduce vibrations from being transmitted from the motor to the mounting plate.

Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marscholl in view of Schust as applied to claims 20-28, 32, 33 and 40 above, and further in view of WO 00/53446. Marscholl is silent concerning a latch mounting plate and a door handle mounting plate.

However, WO 00/53446 discloses a cable arrangement assembly for a vehicle comprising a carrier 14 for a cable, the carrier including a latch mounting plate 70, a door handle mounting plate 56.

It would have been obvious to one of ordinary skill in the art to provide Marscholl, as modified above, with a latch mounting plate and a door handle mounting plate to increase the ease of assembling a vehicle door.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marscholl in view of Schust as applied to claims 20-28, 32, 33 and 40 above, and further in view of Szerdahelyi et al. Marscholl is silent concerning the cross members having a U-shaped cross section.

However, Szerdahelyi et al. discloses an elongate cross member 4 having a U-shaped cross section as shown in figure 3.

It would have been obvious to one of ordinary skill in the art to provide the first and second elongate members of Marscholl, as modified above, with U-shaped cross-section, as taught by Szerdahelyi et al., to increase the strength of the elongate members.

Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herringshaw et al. in view of Borchuk et al. and Ritchie. Herringshaw et al. discloses a vehicle door module comprising an inner door panel 18 having a window frame 26, 28, 30, said inner door panel having an interior side (not shown) for facing an interior of a vehicle and an exterior side (not numbered, but shown in figure 3) for facing an exterior of the vehicle, a carrier 32 for a cable for supporting a window in the window frame, said carrier having a first elongate member (not numbered, but comprising the

upper angled portion of the carrier) and a second elongate member (not numbered, but comprising the lower angled portion of the carrier), said first elongate member transverse to said second elongate member, and wherein said carrier has a plate (not numbered, but comprising the left most vertical section joining the first and second elongate members) for mounting a drive for the window. It should be noted that the first and second elongate members intersect at the right hand end of the carrier. Herringshaw et al. is silent concerning a cable window regulator and a seal.

However, Borchuk et al. discloses a carrier 12 having a first cable guide 34 and a second cable guide 36, a third cable guide 36 and a fourth cable guide 34, a first guide rail 20 spaced generally parallel to a second guide rail 22, said first guide rail and said second guide rail mountable to said carrier and for guiding a window 18.

It would have been obvious to one of ordinary skill in the art to provide Herringshaw et al. with a cable window regulator, as taught by Borchuk et al., to increase the durability of the window regulator.

Additionally, Ritchie discloses a seal 70 for attaching component of a door together.

It would have been obvious to one of ordinary skill in the art to provide Herringshaw et al. with a seal, as taught by Ritchie, to improve the durability of the door.

(10) Response to Argument

Claims 20-22, 24-28 and 31

The Appellant argues that one of ordinary skill in the art would not be motivated to combine the teachings of Marscholl and Schust. This position is untenable for the

following reasons. First, the Appellant's argument that the drive motor 4 is a sealed unit mounted on the wet side of the door inner panel is not supported by the disclosure. Marscholl discloses the use of the window regulator on either the dry side or the wet side of a vehicle door (see column 4, lines 5-7), but is silent concerning how much, if any, sealing the drive motor is provided. Thus, if the window regulator of Marscholl were mounted on the wet side of the vehicle door, one of ordinary skill in the art would realize that there is a need for sealing to prevent the drive motor from becoming contaminated from water and debris.

Second, Schust provides motivation to provide the window regulator of Marscholl with a seal. Schust, in figure 1, discloses a seal 136 disposed between the drive motor 16 and its mounting plate 60. Additionally, Schust discloses that said seal 136 prevents a spray of water from penetrating between the rear wall 60 and the hood 88 of the drive motor 16 (see column 6, lines 23-29). Obviously, one of ordinary skill in the art would determine that Marscholl is silent concerning a seal and realize the benefit of providing the drive motor 4 of Marscholl with a seal, as taught by Schust, to prevent water and debris from penetrating into the drive motor. Moreover, providing Marscholl with a seal, as taught by Schust, has the added benefit of preventing vibration from being transferred from the motor to the motor mounting plate to reduce the amount of noise generated by the window regulator as the window is driven up and down.

Third, providing Marscholl with a seal, as taught by Schust, would require providing the drive mounting plate of Marscholl with said seal. Marscholl discloses a drive motor disposed on one side of the drive mounting plate and a cable drum mounted

on the opposite side of the drive mounting plate. Schust discloses a similar arrangement in that the drive motor 16 is mounted on one side of a plate 60 and the cable drum 18 is mounted on the other side of the plate 60 as shown in figure 1. Thus, when combining the teachings of Marscholl and Schust, one of ordinary skill in the art would provide the seal of Schust disposed between the drive motor and the drive mounting plate of Marscholl. Obviously, the drive mounting plate of Marscholl would have a seal when the seal of Schust is mounted between the drive 4 of Marscholl and its drive mounting plate.

Fourth, the plate 60 of Schust is not required to be part of a carrier because the rejection of claims 20-22, 24-28 and 31 is based on the combination of the teachings of Marscholl and Schust. Since Marscholl discloses a carrier having a drive mounting plate, the combination of the teachings of Marscholl and Schust produces a carrier having a drive mounting plate. Moreover, the plate 60 of Schust has the seal 136 mounted thereon when the motor drive 16 is mounted to the plate 60.

Finally, even if Marscholl and Schust failed to provide any motivation to combine the teachings thereof, the recent ruling in *KSR international Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (2007) forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness.

Claim 23

The Appellant's arguments concerning claim 23 are not persuasive. It should first be noted that the aperture of inner door panel is not part of the claimed invention.

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Rather, the aperture of the inner door panel is merely used as a reference for sizing the seal. Therefore, as long as an inner door panel can have an aperture which is smaller than the seal as disclosed by Schust, said seal meets the limitations of claim 23.

Clearly, an inner door panel can have an aperture, such as a hole for a fastener, which would be smaller than the seal of Schust. Claim 23 does not require the aperture to be large enough to allow the motor drive to pass as argued by the Appellant.

Claim 33

The Appellant's arguments with respect to claim 33 are not persuasive. Since the seal of Schust would be mounted on the drive 4 of Marscholl and said drive is mounted on the second side of the carrier, the seal would also be mounted on the second side of the carrier and mounted to both the drive 4 and the drive mounting plate.

Claim 40

The Appellant's arguments regarding claim 40 are not persuasive. Schust discloses a seal 136 which prevents water from penetrating between a drive motor 16 and a plate 60. When combining the teachings of Marscholl and Schust, one of ordinary skill in the art would provide the drive 4 of Marscholl with the seal 136 of Schust disposed between said drive 4 and its mounting plate. Since said drive with said seal is on the second side of the carrier, the seal would substantially prevent water from passing from the second side of the carrier to the first side of the carrier.

Claim 29

The Appellant's arguments concerning claim 29 are not persuasive. First, the latch mounting plate 70 of WO '446 is clearly part of carrier plate 14 since it is mounted thereto as shown in figure 1. The fact that the bracket 70 can be custom does not overcome the fact that the bracket 70 is attached to the carrier plate 14 as shown in figure 1 and therefore is part of the carrier plate. Second, providing Marscholl with the bracket 70 of WO '446 does not destroy the compact teaching of Marscholl. Lines 13-15 of column 2 of Marscholl are referring to the overall size of the window lift rather than the number of components comprising the window lift. Therefore, providing Marscholl with the bracket 70 of WO '446 would not significantly increase the size of the window lift of Marscholl and, therefore, not destroy the teachings of Marscholl. Moreover, Marscholl discloses attaching additional components to the window lift on lines 31-33. Finally, the recent ruling in *KSR international Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (2007) forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness.

Claim 30

The Appellant's arguments regarding claim 30 are not persuasive. First, the door handle mounting plate 56 of WO '446 is clearly part of carrier plate 14 since it is mounted thereto as shown in figure 1. Second, providing Marscholl with the bracket 56 of WO '446 does not destroy the compact teaching of Marscholl. Lines 13-15 of column 2 of Marscholl are referring to the overall size of the window lift rather than the number

of components comprising the window lift. Therefore, providing Marscholl with the bracket 56 of WO '446 would not significantly increase the size of the window lift of Marscholl and, therefore, not destroy the teachings of Marscholl. Moreover, Marscholl discloses attaching additional components to the window lift on lines 31-33. Finally, the recent ruling in *KSR international Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (2007) forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness.

Claim 31

The Appellant's arguments concerning claim 31 are not persuasive. First, Szerdahelyi et al. clearly discloses an elongate cross member 4 since the member 4 is elongate as shown in figure 1 and extends across the width of the support frame 2. Second, the recent ruling in *KSR international Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (2007) forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness. The benefits of increasing strength are well known to one of ordinary skill in the art and do not have to be explicitly disclosed in order to motivate one of ordinary skill in the art to increase the strength of a component.

Claims 38 and 39

The Appellant's arguments with respect to claim 38 are not persuasive. First, one of ordinary skill in the art would be motivated to replace the window regulator of Herringshaw et al. with the more durable window regulator of Borchuk et al. It should

be noted the Herringshaw et al. and Borchuk et al. disclose no specific dimensions. Therefore, the Appellant's comments regarding the relative sizes of the windows of Herringshaw et al. and Borchuk et al. are not supported by the references. Additionally, with today's large SUVs and trucks, the size of vehicle side doors can be quite substantial requiring more substantial window lifters. Moreover, the mere fact that Borchuk et al. discloses a more reliable and durable window lifter is enough motivation to urge one of ordinary skill in art to replace the window lifter of Herringshaw et al. with the window lifter of Borchuk et al.

Second, the Appellant's arguments concerning the structural feasibility of combining the teachings of Herringshaw et al. and Borchuk et al. are not persuasive. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). More importantly, the window lifter of Borchuk et al. can be structurally incorporated into the door of Herringshaw et al. As shown in figures 1 and 2 of Borchuk et al., the sub-assemblies 20 and 22 are mounted to the carrier 12. Each sub-assembly includes cable return means 36 and 34 which determine the total amount of vertical travel of the window 18. Therefore, when combining the teachings of Herringshaw et al. and Borchuk et al., one of ordinary skill in the art would take the sub-assemblies 20 and 22 and mount them onto the carrier 32 of Herringshaw et al. Therefore, the total height of

the carrier 32 of Herringshaw et al. would not determine the total amount of vertical travel of the window. Rather, the sub-assemblies 20 and 22 of Borchuk et al. would determine the total amount of vertical travel which is clearly sufficient.

Third, nothing in claim 38 prohibits the attachment of the sub-assemblies 20, 22 of Borchuk et al. to the member 210 of Herringshaw et al. Claim 38 uses the open ended language comprising and only requires the first and second guide rails 20 and 22, i.e., the sub-assemblies 20 and 22 of Borchuk et al., be capable of being mounted to the carrier 32 of Herringshaw et al. Clearly said guide rails 20 and 22 are capable of being attached to said carrier 32.

Fourth, Ritchie discloses a bead of adhesive 70 which acts as a seal since Ritchie discloses that the adhesive 70 forms a single sealed surface (see column 4, lines 61-64). Additionally, Ritchie is used for the teaching of attaching components of a vehicle door with an adhesive 70. One of ordinary skill in the art would not be so narrow minded as to limit himself or herself to only using the adhesive to secure the outer panel of the door to the intermediate shell 16. On the contrary, one of ordinary skill in the art would realize the benefits of the adhesive 70 of Ritchie and apply the adhesive wherever appropriate in the vehicle door which would include the engagement between the outer surface of the carrier 32 and the inner panel 18 as shown in figure 4.

Finally, the recent ruling in *KSR international Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (2007) forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness.

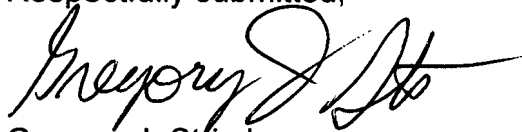
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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Gregory J. Strimbu
Primary Examiner
Art Unit 3634
September 27, 2007

Conferees:

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